IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Narain Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.159/2005

DATE OF ORDER :: October 11, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.H.S.Sandhu, for the petitioner.
Mr.Ashok Upadhyaya, Public Prosecutor.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dt. 22.1.2005 passed by the the Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Sri Ganganagar (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioner against the order dt. 1.10.2003 passed by the Judicial Magistrate (for short 'the trial court' hereinafter), was dismissed on the ground that the order taking cognizance is not revisable relying on a decision of Hon'ble Supreme Court in Adalat Prasad vs. Rooplal Jindal, **JT 2004 (7) SC 243.**

I have heard learned counsel for the petitioner and the Public Prosecutor.

The trial court by order impugned took the cognizance of the offences under sections 376 and 506 I.P.C. against the petitioner and issued the process and non-bailable warrant. I have carefully gone through the statement of the prosecutrix aged 25 years recorded by the trial court as CW.1. In her statement, she has stated that the petitioner subjected her to rape against her will and wish and thereafter took certain photographs and has been blackmailing her and on the strength of photographs, the petitioner has subjected the prosecutrix CW.1 repeatedly to the sexual assault. The statement of CW.2 Jasbeer Singh and CW.3 Jetha Ram were recorded by the trial court, who support the case of the prosecutrix and on the basis of their statement the trial court took the cognizance and issued the process as noticed above. In my view, without going into the controversy as to whether the order is revisable or not, even on merit, the petitioner has no case. In a case of rape where the victim of rape levels the serious allegation of rape against a person, the matter at the initial stage does not warrant quashing of the proceedings. Keeping in view the decision of the Hon'ble Supreme Court in Jagdish Ram vs. State of Rajasthan & Anr.,

AIR 2004 SC 1734, in my view the order impugned cannot be said to be erroneous warranting interference in the inherent jurisdiction.

The petition is, therefore, dismissed. Ad interim stay order dt. 10.2.2005 is vacated. The stay petition also stands dismissed.

[H.R.PANWAR],J.

m.asif/-